IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Misc. Civil Application (Review) No. 462/2007
In
Writ Petition No.4015/2005 (Decided)

Gajanan s/o Uddharao Dhole .vrs. The Secretary, Pradnya Shikshan Sanstha & others.

Office Notes, Office Memoranda of Coram, : Appearances, Court's orders or directions : Court's or Judge's orders and Registrar's orders.

Mr. J.Y. Ghurde, Advocate for the applicant,
Mr. Amol S. Mardikar, Advocate for NA-1 & 2,
Mr. D.B. Patel, AGP for NA- 3 & 4.

.....

CORAM : K.J. ROHEE & S.R. DONGAONKAR, JJ
DATED : JULY 16, 2007

1. Heard Mr. J.Y. Ghurde, Advocate for the applicant, Mr. Amol S. Mardikar, Advocate for non-applicant nos.1 and 2 and Mr. D.B. Patel, AGP for non-applicant nos.3 and 4. Review/Petitioner is present with his lawyer.

2. The review/petitioner had filed Writ Petition No.4015/2005 in which amongst other prayers, prayer clause (a) was made which reads as under :

(a) quash and set aside the impugned

order dated 30.04.2005 passed by the respondent no.4 at“Annexure-19” in Appeal No. DSWO/Amv/Nababpur/Yavatmal/ 1158/05-06 with further declaration that the petitioner is entitled for reinstatement with full salary and continuity of service as well as all other consequential benefits derived from the same;

3. On the date of hearing the Court observed in para no.2 of the order dated 13.7.2006 as under :

“Though the petitioner has sought to challenge the impugned order dated 30.4.2005 on various grounds, the learned Advocate for the petitioner has specifically stated that the challenge in the present petition is now being restricted to the issue regarding denial of 50 % salary for the period from 1.5.1999 to 30.4.2002. Consequently, it is not necessary to address to the other issues which are included in the petition as they are specifically given up by the petitioner.”

4. According to the review/petitioner, he never instructed the lawyer to give up the main prayer and to restrict it only to backwages. Thus the review/petitioner challenges the concession

made by the lawyer before this Court.

5. It has been brought to our notice that on the earlier date of hearing the matter was required to be adjourned as the lawyer for review/petitioner wanted to seek instructions from the petitioner. Accordingly the matter was adjourned to next date ie. on 13.7.2006, on which day, the lawyer for the petitioner made the above concession. We find it difficult to rely on the affidavit of the review/petitioner saying that he never gave such instructions to his lawyer. In fact, it was for the petitioner to have remained present on the last date of hearing along with his lawyer so that such unhappy situation could have been avoided. In the absence of it we are not inclined to entertain the review petition. In our opinion, the review petition is not tenable. The same is, therefore, dismissed.

JUDGE **JUDGE**

asg